

Ralph S. LaMontagne, Jr. [State Bar No. 91536]
rlamontagne@l-a-lawoffices.com
Eric A. Amador [State Bar No. 143395]
eamador@l-a-lawoffices.com
LaMONTAGNE & AMADOR, LLP
150 S. Los Robles Avenue, Suite 940
Pasadena, California 91101
Telephone: (626) 765-6800
Facsimile: (626) 765-6801

Attorneys for Defendants
ALLEGiant TRAVEL COMPANY and
ALLEGiant AIR, LLC

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DAVID C. ROOF,)	Case No. 2:15-cv-08817 DDP (PLAx)
Plaintiff,)	
vs.)	ANSWER TO COMPLAINT
ALLEGiant TRAVEL COMPANY;)	DEMAND FOR JURY TRIAL
ALLEGiant AIR; DOES 1 TO 100,)	
INCLUSIVE)	
Defendants.)	

COME NOW, defendants Allegiant Travel Company (“Allegiant Travel”) and Allegiant Air, LLC (“Allegiant Air”) (erroneously sued and served herein as “Allegiant Air”) (collectively, “Defendants”), and hereby answer the Complaint-- Personal Injury, Property Damage, Wrongful Death (“Complaint”) of plaintiff David C. Roof (“Plaintiff”), as follows:

Except to the extent Defendants expressly admit any of Plaintiff’s allegations, Defendants deny all such allegations. Moreover, to the extent that the Complaint sets forth opinions or legal conclusions, Defendants have no obligation to respond, and deny all such allegations.

1 1. Responding to Paragraph 1 of Plaintiff's Complaint, Defendants admit
2 that Plaintiff alleges causes of action against them. Defendants deny, however, that
3 Plaintiff is entitled to relief.

4 2. Responding to Paragraph 2 of Plaintiff's Complaint, Defendants state
5 that the paragraph contains no factual or legal allegations to which Defendants can
6 respond.

7 3. Responding to Paragraph 3 of Plaintiff's Complaint, Defendants are
8 without sufficient knowledge or information to form a belief as to the truth of the
9 allegations contained in said paragraph, and, on that basis, Defendants deny each and
10 every allegation set forth therein.

11 4. Responding to Paragraph 4 of Plaintiff's Complaint, Defendants state
12 that the paragraph contains no factual or legal allegations to which Defendants can
13 respond.

14 5. Responding to Paragraph 5 of Plaintiff's Complaint, Defendants admit
15 the allegations set forth therein.

16 6. Responding to Paragraph 6 of Plaintiff's Complaint, Defendants are
17 without sufficient knowledge or information to form a belief as to the truth of the
18 allegations contained in said paragraph, and, on that basis, Defendants deny each and
19 every allegation set forth therein.

20 7. Responding to Paragraph 7 of Plaintiff's Complaint, Defendants state
21 that the paragraph contains no factual or legal allegations to which Defendants can
22 respond.

23 8. Responding to Paragraph 8 of Plaintiff's Complaint, the allegations set
24 forth therein consist solely of opinions and legal conclusions, and, therefore,
25 Defendants have no obligation to respond.

26 9. Responding to Paragraph 9 of Plaintiff's Complaint, Defendants state
27 that the paragraph contains no factual or legal allegations to which Defendants can
28 respond.

1 10. Responding to Paragraph 10 of Plaintiff's Complaint, the allegations set
2 forth therein consist solely of opinions and legal conclusions, and, therefore,
3 Defendants have no obligation to respond.

4 11. Responding to Paragraph 11 of Plaintiff's Complaint, Defendants are
5 without sufficient knowledge or information to form a belief as to the truth of the
6 allegations contained in said paragraph, and, on that basis, Defendants deny each and
7 every allegation set forth therein.

8 12. Responding to Paragraph 12 of Plaintiff's Complaint, Defendants state
9 that the paragraph contains no factual or legal allegations to which Defendants can
10 respond.

11 13. Responding to Paragraph 13 of Plaintiff's Complaint, the allegations set
12 forth therein consist solely of opinions and legal conclusions, and, therefore,
13 Defendants have no obligation to respond.

14 14. Responding to Paragraph 14 of Plaintiff's Complaint, Defendants state
15 that the paragraph contains no factual or legal allegations to which Defendants can
16 respond. To the extent Paragraph 14 can be interpreted as setting forth factual
17 allegations, Defendants deny that Plaintiff is entitled to any relief.

18 15. Responding to Paragraph 15 of Plaintiff's Complaint, Defendants state
19 that the paragraph contains no factual or legal allegations to which Defendants can
20 respond.

21 **First Cause of Action – General Negligence**
22 **(Attachment to Complaint)**

23 Responding to the Cause of Action-- General Negligence of Plaintiff's
24 Complaint, to the extent that the allegations set forth therein are directed at other
25 defendants and/or consist solely of opinions and legal conclusions, Defendants have
26 no obligation to respond. To the extent that a response is deemed required,
27 Defendants deny each and every allegation directed at them.
28

AFFIRMATIVE DEFENSES

1
2 1. Plaintiff's Complaint fails to state facts sufficient to state a claim for
3 relief against Defendants.

4 2. Plaintiff may lack capacity and/or standing to bring this action.

5 3. To the extent Plaintiff was injured, Defendants were not the actual cause
6 of those injuries.

7 4. Plaintiff's damages, if any, were proximately caused by the acts or
8 omissions of other persons and entities over whom Defendants had no control or
9 right of control, and said acts or omissions were the sole proximate cause of
10 Plaintiff's damages, if any.

11 5. Plaintiff's damages, if any, were caused by the acts or omissions of
12 other persons or entities for which Defendants are not liable or responsible. In the
13 event Defendants are found liable to Plaintiff, which Defendants expressly deny,
14 Defendants may be entitled to indemnification, contribution or apportionment of
15 liability and fault pursuant to applicable law.

16 6. Claims and recovery by Plaintiff may be barred, in whole or in part,
17 under the applicable laws governing comparative fault, contributory negligence,
18 and/or assumption of the risk due to the acts or omissions of the Plaintiff.

19 7. The damages, if any, of Plaintiff may have been directly and
20 proximately caused by an unavoidable accident or act of God for which Defendants
21 are not liable.

22 8. Plaintiff's Complaint should be dismissed on the ground that Plaintiff
23 has failed to join necessary and indispensable parties.

24 9. Plaintiff's damages, if any, may be barred and/or limited under
25 applicable law.

26 10. Defendants complied with all applicable codes, standards, and
27 regulations of the United States and agencies thereof.
28

11. Plaintiff's damages, if any, may be barred and/or limited under applicable law due to his failure to mitigate his damages.

12. Some or all of Plaintiff's claims may be barred in whole or in part because he may have already received full satisfaction and/or compensation for the injuries and damages, if any, and his claims may be barred by Plaintiff's prior release of claims and/or accord and satisfaction with any entity.

13. An award or judgment rendered in favor of Plaintiff must be reduced by the amount of benefits Plaintiff received, or is entitled to receive, from any source as a result of the alleged incident.

14. Plaintiff's claims may be barred in whole or in part and/or preempted by federal law and/or international treaty.

14. Plaintiff's claims may be barred in whole or in part by applicable statutes of limitation.

16. Defendants reserve their rights to assert any and all additional defenses as may be revealed by further investigation and discovery and to supplement and amend their affirmative defenses as necessary in light of any facts, allegations, claims, or changes or modifications in the law.

PRAYER FOR RELIEF

Defendants pray for the following relief from this Court:

1. A judgment that Plaintiff shall take nothing from Defendants by way of his Complaint;

2. An award to Defendants of costs of suit and any recoverable attorneys' fees; and

3. Such other and further relief as this Court deems proper.

DEMAND FOR JURY TRIAL

Defendants hereby demand a trial by jury.

Dated: November 17, 2015

Respectfully submitted,

LaMONTAGNE & AMADOR LLP

By: /s/ Ralph S. LaMontagne, Jr.

Ralph S. LaMontagne, Jr.

Eric A. Amador

Attorneys for Defendants

ALLEGIANT TRAVEL COMPANY and

ALLEGIANT AIR, LLC